

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

first floor or is accessible by elevator or in a building which meets the part of the building set aside for voting meets the requirements for accessible routes of the 1981 standards of construction described in Title 25, chapter 331.

Sec. 2. 21 MRSA §604, sub-§2, as amended by PL 1977, c. 233, §§1 and 2, is repealed and the following enacted in its place:

2. Voting places. Before July 1, 1985, each municipality shall provide at least one voting place which is in a building which is accessible as defined in subsection 1.

A. The Secretary of State shall grant a waiver from the requirements of this subsection to any municipality which can satisfactorily demonstrate that those requirements ought not to apply or would create an extreme hardship. Factors which the Secretary of State may consider in making that determination include, but are not limited to, the following: The municipality has no handicapped voters and the physical limitations of a voting place make it impractical to provide an accessible voting place as described in subsection 1. The Secretary of State shall promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, rules governing the circumstances and procedures for granting a waiver under this paragraph.

Sec. 3. 21 MRSA §604, sub-§4, as enacted by PL 1979, c. 219, is repealed.

Effective September 23, 1983.

CHAPTER 489

H.P. 1311 - L.D. 1740

AN ACT Relating to Major Policy-influencing Positions in Various State Agencies.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §282, first ¶, as amended by PL 1977, c. 674, §3, is repealed and the following enacted in its place:

The commissioner may, with the approval of the Governor, appoint a deputy commissioner, who shall be

the chief of one of the department bureaus and shall perform the duties of the commissioner during the commissioner's absence, in addition to his regular duties. The compensation and expense of the deputy commissioner shall be paid from any available funds appropriated for the use of the bureau of which he is chief. With the exception of the Director of Central Computer Services, the commissioner may appoint and employ the bureau chiefs and the assistant to the commissioner to be under his immediate supervision, direction and control, and to serve at his pleasure and perform such duties as he may prescribe, except as otherwise provided by law.

Sec. 2. 5 MRSA §631, sub-§7, as amended by PL 1981, c. 289, §7, is further amended to read:

7. Organization and decentralization. To organize the department and separate it into such divisions and along such functional lines as the commissioner may deem most efficient and to decentralize the functions of personnel management among the various departments and agencies of the State consistent with the requirements of section 551-A and deemed in the best interest of efficient administration, and to perform those functions which are not decentralized; and

Sec. 3. 5 MRSA §631, sub-§8 is enacted to read:

8. Personnel. The commissioner may appoint a Director of Planning and Operations and the Assistant to the Commissioner to serve at his pleasure and may employ, subject to the Personnel Law, such other employees who may be necessary to carry out the work of the department.

Sec. 4. 5 MRSA §711, sub-§2, ¶A, as amended by PL 1981, c. 708, §§1 to 3, is further amended to read:

A. The following positions in the following departments are major policy-influencing positions. These positions and their successor positions shall be subject to this subsection, notwithstanding any other provision of law:

(1) Department of the Attorney General:

(a) Deputy Attorneys General; and

(b) Assistant Attorneys General;

(1-A) Department of Agriculture, Food and Rural Resources:

- (a) Deputy Commissioners;
 - (b) Associate Commissioner for Policy Development;
 - (c) Director, Bureau of Agricultural Productions;
 - (d) Director, Bureau of Agricultural Marketing;
 - (e) Director, Bureau of Agricultural and Rural Resources; ~~and~~
 - (f) Director, Bureau of Public Services; and
 - (g) Assistant to the Commissioner for Public Information;
- (2) Department of Business Regulation:
- (a) Superintendent, Bureau of Banking;
 - (b) Superintendent, Bureau of Consumer Credit Protection; ~~and~~
 - (c) Superintendent, Bureau of Insurance; and
 - (d) Assistant to the Commissioner;
- (3) Department of Conservation:
- (a) Director, Administrative Services;
 - (b) Director, Planning and Program Services;
 - (c) Director, Bureau of Forestry;
 - (d) Director, Maine Geological Survey;
 - (e) Executive Director, Maine Land Use Regulation Commission;
 - (f) Director, Bureau of Parks and Recreation;
 - (g) Director, Bureau of Public Lands; ~~and~~
 - (h) Forest Insect Manager, Bureau of Forestry; ;

(i) Assistant to the Commissioner for
Public Information; and

(j) Assistant to the Commissioner;

(4) Department of Educational and Cultural
Services:

(a) Assistant to the Commissioner;

(b) Deputy Commissioner;

(c) Associate Commissioner, Bureau of
School Management;

(d) Associate Commissioner, Bureau of
Instruction; and

(e) Associate Commissioner, Bureau of
Vocational Education; ;

(f) Director, Planning and Management
Information; and

(g) Federal and State Education Pro-
gram Coordinator;

(4-A) Department of Environmental Protec-
tion:

(a) Deputy Commissioner; and

(b) Assistant to the Commissioner;

(5) Department of Finance and Administra-
tion:

(a) State Controller;

(b) State Purchasing Agent;

(c) State Tax Assessor;

(d) Director, Bureau of Public
Improvements;

(e) Director, Bureau of Alcoholic Bev-
erages; and

(f) State Budget Officer; ;

(g) Assistant to the Commissioner; and

- (h) Director, Risk Management;
- (6) Department of Human Services:
 - (a) Deputy Commissioners;
 - (b) Director, Bureau of Maine's Elderly;
 - (c) Director, Bureau of Resource Development;
 - (d) Director, Bureau of Health;
 - (e) Director, Bureau of Rehabilitation;
 - (f) Director, Bureau of Income Maintenance;
 - (g) Director, State Health Planning and Development Agency; and
 - (h) Director, Bureau of Medical Services;
- (7) Maine Human Rights Commission:
 - (a) Executive Director; and
 - (b) Chief Compliance Officer;
- ~~(8) Department of Indian Affairs:~~
 - ~~(a) Deputy Commissioner.~~
- (9) Department of Inland Fisheries and Wildlife:
 - (a) Deputy Commissioner ;
 - (b) Game Warden Colonel;
 - (c) Assistant to the Commissioner for Public Information; and
 - (d) Assistant to the Commissioner;
- (10) Maine State Lottery Commission:
 - (a) Deputy Director;
- (11) Department of Labor:
 - ~~(a) Director, Manpower Training Division;~~

(a-1) Director, Maine Job Training Council;

(b) Director, Bureau of Labor Standards; and

(c) Executive Director, Maine Labor Relations Board; ;

(d) Assistant to the Commissioner;

(e) Assistant to the Commissioner for Public Information;

(f) Director, Planning and Program Services;

(g) Executive Director, Bureau of Employment Security;

(h) Executive Secretary, Maine Occupational Information Coordinating Committee;

(i) Executive Director, Office of Maine CETA; and

(j) Executive Director, State Employment and Training Council;

(12) Department of Marine Resources:

(a) Deputy Commissioner; ;

(b) Chief, Bureau of Marine Patrol; and

(c) Assistant to the Commissioner;

(13) Department of Mental Health and Mental Retardation:

(a) Associate Commissioner;

(b) Director, Bureau of Mental Health;

(c) Superintendent, Augusta Mental Health Institute;

(d) Superintendent, Bangor Mental Health Institute;

(e) Director, Bureau of Mental Retardation;

(f) Superintendent, Pineland Center; and

- (g) Director, Bureau of Corrections; i
- (14) Department of Defense and Veterans Services:
- (a) Deputy Adjutant General;
 - (b) Director, Bureau of Civil Emergency Preparedness; and
 - (c) Director, Bureau of Veterans Services; i
- (15) Department of Public Safety:
- (a) Chief, Bureau of State Police;
 - (b) Director, Bureau of Liquor Enforcement;
 - (c) Director, Office of State Fire Marshal; and
 - (d) Director, Maine Criminal Justice Academy; i
 - (e) Assistant to the Commissioner for Public Information;
 - (f) Assistant to the Commissioner; and
 - (g) Two Deputy Chiefs, State Police;
- (16) Department of Secretary of State:
- (a) Deputy Secretaries of State; and
 - (b) State Archivist; i
- (17) Department of Transportation:
- (a) Deputy Commissioners; and
 - (b) Chief Counsel, Bureau of Legal Services; i
 - (c) Assistant to the Commissioner; and
 - (d) Assistant to the Commissioner for Public Information; and
- (18) Department of Personnel:
- (a) Assistant to the Commissioner; and
 - (b) Director, Planning and Operations.

Sec. 5. 5 MRSA §711, sub-§2, ¶B, as amended by PL 1979, c. 127, §§32-A and 32-B, is repealed and the following enacted in its place:

B. Except where a term is otherwise provided by law, the legislatively designated appointing authority of the department or agency in which a major policy-influencing position is located may appoint and remove persons to and from these positions, provided that, if any position is subject to the Personnel Law on the effective date of this paragraph, the incumbent of the position or person on leave of absence from the position on that day may retain his appointment subject to the Personnel Law. Any person currently occupying an unclassified position which is made a major policy-influencing position on the effective date of this paragraph shall be subject to the appropriate laws and policies pertaining to the unclassified service. Any person permanently appointed to a classified position who accepts an appointment to a major policy-influencing position, shall have the right, for 12 months subsequent to appointment to the major policy-influencing position, to be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade in an agency, without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled him. If his service in that unclassified supervisory position shall have been terminated for cause, his right to be so restored shall be determined by the Personnel Board. During the 12-month period, the appointing authority may temporarily appoint a person to the position under the Personnel Law, provided that funds are available for the appointment and that it is consistent with the law.

Sec. 6. 5 MRSA §1727, first ¶, as enacted by PL 1971, c. 239, §2, is amended to read:

The board shall employ an executive secretary who has a comprehensive knowledge of insurance practices and principles and who shall administer the duties imposed by this chapter, with the advice of the board. The executive secretary shall be an employee of the State and ~~shall be subject to the Personnel Law~~ serve at the pleasure of the board.

Sec. 7. 10 MRSA §8002, sub-§2, as repealed and replaced by PL 1975, c. 767, §9, is repealed and the following enacted in its place:

2. Personnel. Appoint an assistant to the commissioner to serve at his pleasure and transfer personnel within the department to insure efficient utilization of department personnel;

Sec. 8. 12 MRSA §6022, sub-§3, as enacted by PL 1977, c. 661, §5, is amended to read:

3. Organization and personnel. The commissioner shall organize the department into the administrative units which he decides are necessary to carry out its duties. The commissioner shall hire all necessary employees of the department subject to the Personnel Law, except as provided in section 6023, and shall prescribe their duties; that persons in the following positions shall be appointed by and serve at the pleasure of the commissioner: Deputy Commissioner; Chief, Bureau of Marine Patrol; and Assistant to the Commissioner. The Chief of the Bureau of Marine Patrol shall be appointed from among the patrol personnel of the bureau with the rank of sergeant or higher. In the event that the Chief of the Bureau of Marine Patrol is not reappointed, he shall have the right to be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified position would have entitled him. If his service in the position of Chief of the Bureau of Marine Patrol shall be terminated for cause, his right to be so restored shall be determined by the Personnel Board.

Sec. 9. 12 MRSA §7034, sub-§2-A is enacted to read:

2-A. Employment of personnel. The commissioner shall employ, subject to the Personnel Law, such employees as are necessary to carry out the duties of his organization, except that persons in the following positions shall be appointed by and serve at the pleasure of the commissioner: Deputy Commissioner; Game Warden Colonel; Assistant to the Commissioner; and Assistant to the Commissioner for Public Information.

The Game Warden Colonel shall be appointed from among the game wardens of the department with the rank of sergeant or higher. In the event that the Game Warden Colonel is not reappointed, he shall have the right to be restored to the classified position from which he shall have been promoted or to a position equivalent thereto in salary grade in an agency, without impairment of his personnel status or the loss of seniority, retirement or other rights to which uninterrupted service in the classified posi-

tion would have entitled him. If his service in that unclassified supervisory position shall have been terminated for cause, his right to be so restored shall be determined by the Personnel Board.

Sec. 10. 20-A MRSA §203, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

§203. Appointments

1. Commissioner's appointments. The commissioner shall appoint the following officials who shall serve at his pleasure:

A. Assistant to the Commissioner;

B. Deputy Commissioner;

C. Associate Commissioner, Bureau of School Management;

D. Associate Commissioner, Bureau of Instruction;

E. Associate Commissioner, Bureau of Vocational Education;

F. Director, Planning and Management Information; and

G. Federal and State Education Program Coordinator.

Sec. 11. 23 MRSA §4206, sub-§4, as amended by PL 1977, c. 674, §22, is further amended to read:

4. Personnel. The commissioner may appoint such deputies, directors, assistants, general counsel and other officers and employees as may be needed for the performance of his duties. These appointments shall be subject to the Personnel Law, except for the following who shall serve at the pleasure of the commissioner: Deputy Commissioners of Transportation and the chief legal counsel; Chief Counsel, Bureau of Legal Services; Assistant to the Commissioner; and Assistant to the Commissioner for Public Information.

Sec. 12. 25 MRSA §1501, 3rd ¶, as repealed and replaced by PL 1975, c. 579, §3, is amended to read:

Subject to the approval of the Commissioner of Public Safety, the chief may designate a appoint 2 commissioned officer officers of the State Police to act as his deputy deputies and serve in such capacity a term eterminous with that of the chief, subject to

removal for cause at his pleasure. Subject to the Personnel Law, the Chief of the State Police may enlist suitable persons as members of the State Police to enforce the law and employ such other employees as may be necessary. The Chief of the State Police shall make rules and regulations, subject to the approval of the Personnel Board, for the discipline and control of the State Police. If a deputy chief is removed or fails to be reappointed for any reason other than malfeasance of office and, at that time, does not have at least 20 years of service with the State Police, he shall be reinstated at the commissioned rank held at the time of the appointment with all the rights and privileges as provided by law and personnel rules.

Sec. 13. 25 MRSA §2902, as amended by PL 1981, c. 98, §§4 and 5, is further amended by adding at the end a new paragraph to read:

Unless specified otherwise by statute, department personnel shall be appointed subject to the Personnel Law. Persons holding major policy-influencing positions under Title 5, section 711, subsection 2, paragraph A, shall be appointed by and serve at the pleasure of the commissioner, except as otherwise provided by law.

Sec. 14. 26 MRSA §1082, sub-§1, as amended by PL 1981, c. 168, §11, is further amended to read:

1. Powers and duties of the commissioner. Except as otherwise provided, it shall be the duty of the Commissioner of Labor to administer this chapter through an organization to be known as the Bureau of Employment Security. The commissioner shall appoint a Director of Employment Security to serve at his pleasure. The commissioner shall have the power and authority to may employ such persons, make such expenditures, require such reports, make such investigations and take such other actions as he deems necessary or suitable to that end.

Sec. 15. 26 MRSA §1401, sub-§2, as repealed and replaced by PL 1977, c. 674, §25, is repealed and the following enacted in its place:

2. Personnel. Appoint to serve at his pleasure:

A. Assistant to the Commissioner;

B. Assistant to the Commissioner for Public Information;

C. Director, Planning and Program Services;

- D. Director, Bureau of Labor Standards;
- E. Director, Bureau of Employment Security;
- F. Director, Maine Job Training Council;
- G. Executive Secretary, Maine Occupational Information Coordinating Committee;
- H. Executive Director, Office of Maine CETA; and
- I. Executive Director, State Employment and Training Council.

The commissioner may appoint, subject to the Personnel Law, such other personnel as may be necessary to carry out the functions of the department. The commissioner may transfer personnel within the department to insure the efficient utilization of department personnel;

Effective September 23, 1983.

CHAPTER 490

H.P. 1318 - L.D. 1745

AN ACT to Improve the Identification
of Persons Trying to Evade State Taxes.

Be it enacted by the People of the State of Maine as follows:

36 MRSA §5332, as repealed and replaced by PL 1977, c. 696, §295, is amended to read:

§5332. Failure to file return, supply information, pay tax

Any person required under this Part to pay any tax or estimated tax, or required by this Part or regulation prescribed thereunder to make a return, other than a return of estimated tax, keep any records or supply any information, who intentionally fails to pay that tax or estimated tax, make the return, keep the records or supply the information, at the time or times required by law or regulation, shall, in addition to other penalties provided by law, be guilty of a Class D crime. In determining whether a person is required to make a return under this Part, proof that the person filed a federal income tax return for a taxable year shall give rise